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REMARKS

Claims 1-20 remain in the application.

The objections to the specification and claims, and the §112 rejection, have been addressed by amendment.

§102 Rejections

Claims 1, 2 and 14-15 were rejected under §102 as anticipated by Bruwer. Bruwer discloses a flashlight that replaces simple mechanical control switches with a microchip control. Bruwer discloses multiple activating switches connecting different voltages to the microchip. Different switch combinations may represent different commands.

The rejection of claim 1 is in error because the cited reference does not disclose all of the elements of the claim. Moreover, the action does not even allege that the reference discloses certain features that the applicant claims:

*"the controller being operable in response to actuation of the first switch to deliver power to the lamp; and
the controller being operable in response to a signal received from the second switch to establish a degree of the delivered power, such that the second switch determines a brightness of the lamp."*

Accordingly, claim 1 and its dependents should be allowable.

Claim 14 and 15 should be allowable for the additional reason that the office action fails to point out where the cited reference discloses the claimed operability of the controller.

Claims 16 and 20 were rejected under §102 as anticipated by Lebens. Lebens discloses a flashlight with a control circuit that maintains an LED light output level as the battery charge diminishes. Lebens further discloses a switch circuit to provide user control to set a light level.

The rejection of claim 16 is in error because the cited reference does not disclose all of the elements of the claim. The action quotes applicant's steps of operation, and cites several passages of the cited reference. The first passage is a 747-word passage, and the action fails to indicate which portions and elements correspond to those in applicant's claim. The MPEP requires that a rejection specifically cite the elements being regarded as disclosing the elements of the rejected claim.

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The rejection further cites a passage at column 7, lines 10-14 that indicates that an alternative embodiment may have a switch to control brightness. However, this is not made with reference to any drawings or enabling description that indicates another switch, nor a method of operation providing dimmed or full illumination based on different actuation conditions. A further passage is cited, which discloses a switch circuit that allows the user to set light level. However, this also fails to disclose all the elements and steps of the claim. Accordingly, claim 16 and its dependents should be allowable.

The rejection of claim 20 is in error because the cited reference does not disclose all of the elements of the claim. The action quotes applicant's steps of operation, and cites several passages of the cited reference. The first passage is a 747-word passage, and the action fails to indicate which portions and elements correspond to those in applicant's claim. The MPEP requires that a rejection specifically cite the elements being regarded as disclosing the elements of the rejected claim.

The rejection further cites a passage at column 7, lines 10-14 that indicates that an alternative embodiment may have a switch to control brightness. This passage does not make reference to selecting color output. A further passage is cited, which discloses a switch circuit that allows the user to set light color. However, this also fails to disclose all the elements and steps of the claim. In particular, the reference does not disclose using one switch to select a color, and another switch to provide illumination with the selected color when in an intermediate position. Accordingly, claim 20 should be allowable.

§103 Rejections

Claims 3 and 13 were rejected on the grounds that the claimed location of the switches is a mere matter of arbitrary design choice. However, applicant traverses the rejection because moving the position of an electrical switch on a flashlight from a conventional location to a novel location is not a simple matter. Unlike the moving of a handle or other mechanical appendage from one location to another, moving a switch requires providing wiring and circuitry to another location. With the typical objective of simplicity and durability for flashlights, adding wiring (especially within the length of the battery tube) is disadvantageous. Thus not only is the proposed modification not a simple matter of design choice, but the added complexity needed to

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conventionally implement a switch relocation teaches away from the proposed modification. Therefore, claims 3 and 13 should be allowable.

Claims 4-9 and 11-12 were rejected under §103 as unpatentable over Bruwer in view of Coffman. Coffman is cited for the disclosure of a rotatable collar with several switch actuator elements to select from among a spotlight, fluorescent light, and strobe light.

Claim 4 depends from claim 1, and should be allowable for the above reasons and because of the features set forth therein. In addition, the rejection is traversed because there is inadequate motivation to make the proposed modification of Bruwer. The action states that the motivation is provide resistance to corrosion and water. However, there is no evidence that Bruwer needs an improvement in this area. In fact, Bruwer teaches away from the proposed combination. Bruwer offers its own type of switches as a solution to prior problems of leakage and corrosion (col. 3, lines 37-38.) Evidently, Bruwer has solved any leakage and corrosion concerns, so therefore has no motivation to adopt a switch of a different type. Moreover, the use of a rotatable collar to select from among three different lamps does not disclose the claimed feature of delivering power in response to the position of such a switch, as required by claim 1. If anything, Coffman teaches a collar to switch among different sources, not to establish a power level to determine brightness. Accordingly, claim 4 should be allowable for these additional reasons.

Claim 5 depends from claim 1, and should be allowable for the above reasons and because of the features set forth therein. In addition, the rejection is traversed because the asserted motivation to make the modification (to ensure protection for the electrical components within the apparatus) is unjustified. There is no evidence that Bruwer's components are unprotected, nor is there any evidence that positioning a switch outside the chamber would protect components. To the contrary, positioning a switch component outside of the protected space would make the switch more vulnerable. Thus, Bruwer teaches away from the notion of an external switch.

Claim 6 depends from claim 1, and should be allowable for the above reasons and because of the features set forth therein. In addition, the rejection is traversed because the action fails to allege a sensor component within the housing.

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Regarding claims 6-9 and 11-12, the rejection is inadequate. The action merely recites the elements that are claimed, and then follows with a quotation from Coffman, without actually making the case by identifying the elements and features that are associated with each and every element of each claim, as required. In addition, the rejections are traversed because of the inadequacy of the asserted motivation, as argued above with respect to claim 4. Further, with respect to claim 11, there is no indication that the references disclose delivery of power quantity based on the switch position. With respect to claim 12, there is no indication the references disclose establishment of power level based on a duration of force application to the switch. If these rejections are upheld, applicant requests that each be fully and individually articulated in a manner compliant with MPEP rules.

Claim 10 depends from claim 1, and should be allowable for the above reasons and because of the features set forth therein. In addition, the rejection is traversed because the asserted motivation is inadequate, there being no evidence that Bruwer lacks aesthetics or control.

Claims 17-19 were rejected under §103 as unpatentable over Lebens in view of Coffman. Coffman is cited for the disclosure of a rotatable collar with several switch actuator elements to select from among a spotlight, fluorescent light, and strobe light. Claims 17-19 depend from claim 16, and should be allowable for the reasons noted above with respect to claim 16, and because of the features set forth therein.

Claim 17 should be allowable for the additional reason that articulated motivation is inadequate, as argued above with respect to claim 4, in that there is no evidence to suggest that adopting a collar switch would improve the seal of Bruwer.

Claim 18 should be allowable for the additional reason that the action fails to allege that either reference discloses the actual feature claimed. The action asserts only that the references disclose applying a rotation force, but not establishing a dimmed level based on a duration of application of force. In addition, no motivation is alleged.

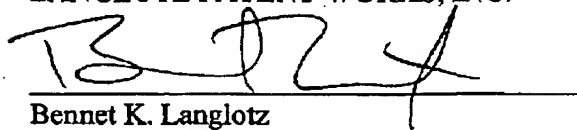
Claim 19 should be allowable for the additional reasons stated above with respect to claim 5.

All pending claims should be allowable for the above reasons. Reconsideration of the application is respectfully requested.

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